

eight (8) months from the date of grant or the authorization cancels automatically and must be returned to the Commission.

(b) For local government entities only, a period longer than eight months for placing a station in operation may be authorized by the Commission on a case-by-case basis, where the applicant submits a specific schedule for the completion of each portion of the entire system, along with a showing that the system has been approved and funded for implementation in accordance with that schedule. See also §§ 90.631 and 90.633.

(c) For purposes of this section, a base station is not considered to be placed in operation unless at least one associated mobile station is also placed in operation. See also §§ 90.633(d) and 90.631(f).

(d) Multilateration LMS systems authorized in accordance with § 90.353 must be constructed and placed in operation within twelve (12) months from the date of grant or the authorization cancels automatically and must be returned to the Commission. MTA-licensed multilateration LMS systems will be considered constructed and placed in operation if such systems construct a sufficient number of base stations that utilize multilateration technology (see paragraph (e) of this section) to provide multilateration location service to a substantial portion of at least one BTA in the MTA.

(e) A multilateration LMS station will be considered constructed and placed in operation if it is built in accordance with its authorized parameters and is regularly interacting with one or more other stations to provide location service, using multilateration technology, to one or more mobile units. Specifically, LMS multilateration stations will only be considered constructed and placed in operation if they are part of a system that can interrogate a mobile, receive the response at 3 or more sites, compute the location from the time of arrival of the responses and transmit the

location either back to the mobile or to a subscriber's fixed site.

[45 FR 81208, Dec. 10, 1980, as amended at 47 FR 41044, Sept. 16, 1982; 48 FR 51927, Nov. 15, 1983; 54 FR 4030, Jan. 27, 1989; 56 FR 65859, Dec. 19, 1991; 60 FR 15252, Mar. 23, 1995; 61 FR 6155, Feb. 16, 1996]

§ 90.157 Discontinuance of station operation.

(a) The license for a station shall cancel automatically upon permanent discontinuance of operations and the licensee shall forward the station license to the Commission. Alternatively, the licensee may notify the Commission of the discontinuance of operations of a station by checking the appropriate box on Form 574-R or Form 405-A and requesting license cancellation. Notification of discontinued operation or cancellation shall be sent to: Federal Communications Commission, Gettysburg, PA 17326.

(b) For the purposes of this section, any station which has not operated for 1 year or more is considered to have been permanently discontinued.

[48 FR 36106, Aug. 9, 1983, as amended at 54 FR 38680, Sept. 20, 1989; 56 FR 65859, Dec. 19, 1991]

§ 90.159 Temporary and conditional permits.

(a) An applicant for a license under this part (other than a commercial mobile radio license) utilizing an already licensed facility may operate the radio station(s) for a period of up to one hundred eighty (180) days under a temporary permit evidenced by a properly executed temporary license certificate (Form 572) after submitting or filing a formal application for station license in accordance with § 90.127, provided that all the antennas employed by control stations are 6.1 meters (20 feet) or less above ground or 6.1 meters (20 feet) or less above a man-made structure other than an antenna tower to which it is affixed. When required by § 90.175, applications must be accompanied by evidence of frequency coordination. The temporary operation of stations, other than mobile stations within the Canadian coordination zone is limited

to stations with a maximum of 5 watts effective radiated power and a maximum antenna height of 6.1 meters (20 ft) above average terrain.

(b) An applicant proposing to operate a new land mobile station or modify an existing station below 470 MHz or in the one-way paging 929–930 MHz band (other than a commercial mobile radio service applicant or licensee on these bands) that is required to submit a frequency recommendation pursuant to paragraphs (a) through (e) of § 90.175 may operate the proposed station during the pendency of its application for a period of up to one hundred eighty (180) days under a conditional permit upon the filing of a properly completed formal application that complies with § 90.127 if the application is accompanied by evidence of frequency coordination in accordance with §§ 90.175 and 90.176, and provided that the following conditions are satisfied:

(1) For applicants proposing to operate below 470 MHz, that the proposed station location is south of Line A or west of Line C as defined in § 90.7; for applicants in the one-way paging 929–930 MHz band, that the proposed station location is west of Line C as defined in § 90.7.

(2) The proposed antenna structure has been previously studied by the Federal Aviation Administration and determined to pose no hazard to aviation safety as required by § 17.4 of the Commission's Rules; or the proposed antenna or tower structure does not exceed 6.1 meters (20 feet) above ground level or above an existing man-made structure (other than an antenna structure), if the antenna or tower has not been previously studied by the Federal Aviation Administration and cleared by the FCC.

(3) The grant of the application does not require a waiver of the Commission's Rules.

(4) The applicant has determined that the proposed facility will not significantly affect the environment as defined in § 1.1307.

(5) The applicant has determined that the proposed station affords the level of protection to radio "quiet" zones and monitoring facilities as specified in § 90.177.

(6) The applicant has submitted an application to the Commission stating the frequency the applicant intends to use and that the frequency coordination requirements specified in §§ 90.175 and 90.176 for selection and use of this frequency have been satisfied.

(c) An applicant proposing to operate an itinerant station or an applicant seeking the assignment of authorization or transfer of control of a license for an existing station below 470 MHz or in the 929–930 MHz band (other than a commercial mobile radio service applicant or licensee on these bands) may operate the proposed station during the pendency of the application for a period not to exceed one hundred eighty (180) days under a conditional permit upon the filing of a properly completed formal application that complies with § 90.127. Conditional authority ceases immediately if the application is returned by the Commission because it is not acceptable for filing. All other categories of applications listed in § 90.175(f) that do not require evidence of frequency coordination are excluded from the provisions of this rule section.

(d) A conditional authorization pursuant to paragraphs (b) and (c) of this section is evidenced by retaining the original executed conditional licensing 572C Certification Form with the station records. Conditional authorization does not prejudice any action the Commission may take on the subject application. Conditional authority is accepted with the express understanding that such authority may be modified or cancelled by the Commission at any time without hearing if, in the Commission's discretion, the need for such action arises. Consistent with § 90.175(d), the applicant assumes all risks associated with operation under conditional authority, the termination or modification of conditional authority, or the subsequent dismissal or denial of its application. Authority reverts back to the original licensee if an assignee or transferee's conditional authority is cancelled.

(e) The transmissions of new stations operating pursuant to conditional authority shall be identified by a temporary call sign consisting of the prefix "WT" followed by the applicant's local seven digit business telephone number

as provided in § 2.302. Transmissions by applicants for the modification, assignment of authorization or transfer of control of an existing station shall be identified by the station's call sign.

[51 FR 14997, Apr. 22, 1986, as amended at 54 FR 50239, Dec. 5, 1989; 58 FR 44956, Aug. 25, 1993; 58 FR 62291, Nov. 26, 1993; 59 FR 59959, Nov. 21, 1994]

SPECIAL RULES GOVERNING FACILITIES USED TO PROVIDE COMMERCIAL MOBILE RADIO SERVICES

SOURCE: 59 FR 59959, Nov. 21, 1994, unless otherwise noted.

NOTE: The following rules (§§ 90.160 through 90.169) govern applications, licensing, and operation of radio facilities in the 220–222 MHz (subpart T), Business Radio (Subpart D), 929–930 MHz Paging (subpart P), and Specialized Mobile Radio (Subpart S) services that are used to provide commercial mobile radio services (see §§ 20.3 and 20.9 of this chapter). Compliance with the rules relating to applications and licensing of facilities on paging-only channels in the Business Radio Service (see § 90.75(c)(10)) and 929–930 MHz paging channels (see § 90.494(a),(b)) is not required prior to August 10, 1996. Compliance with § 90.168 is also not required prior to August 10, 1996 for reclassified commercial mobile radio service providers who are to be regulated as private carriers until August 10, 1996 as provided in the Second Report and Order in GN Docket No. 93–252, 9 FCC Rcd 2348 (1994), paras. 280–284. The licensing and operation of radio facilities in the 220–222 MHz (Subpart T), Business Radio (Subpart D), 929–930 MHz Paging (Subpart P), and Specialized Mobile Radio (Subpart S) services that are used to provide commercial mobile radio services are also subject to rules elsewhere in this part that apply generally to Private Land Mobile Radio Services. In the case of any conflict between rules set forth in §§ 90.160 through 90.169 and other rules in this part, §§ 90.160 through 90.169 apply.

§ 90.160 Public notice.

Periodically, the Commission will issue Public Notices listing major filings and other information of public significance concerning commercial mobile radio services licensed under this part. Categories of Public Notice listings are as follows:

(a) *Accepted for filing.* Acceptance for filing of all applications and major amendments thereto.

(b) *Actions.* Commission actions on pending applications previously listed as accepted for filing.

(c) *Informative listings.* Information that the Commission, in its discretion, believes to be of public significance. Such listings do not create any rights to file oppositions or other pleadings.

§ 90.161 Amendment or dismissal of applications.

(a) *Amendment.* Pending applications concerning facilities for providing commercial mobile radio services may be amended as a matter of right if such applications have not been designated for hearing or listed in a Public Notice for a random selection or competitive bidding process, except as provided in paragraphs (a)(1) and (a)(2) of this section. If a petition to deny or other formal objection has been filed, a copy of any amendment (or other filing) must be served on the petitioner. If the Commission has issued a Public Notice stating that the application appears to be mutually exclusive with another application (or applications), a copy of any amendment (or other filing) must be served on any such mutually exclusive applicant (or applicants).

(1) Amendments to applications that resolve mutual exclusivity may be filed at any time, subject to the requirements of § 90.162.

(2) Amendments to applications designated for hearing may be allowed by the presiding officer and amendments to applications selected in a random selection process may be allowed by the Commission for good cause shown. In such instances, a written petition demonstrating good cause must be submitted and served upon the parties of record.

(b) *Dismissal.* The Commission may dismiss any application for authorization, assignment of authorization, or consent to transfer of control of a commercial mobile radio facility.

(1) Upon request by the applicant; Any applicant may request that its application be returned or dismissed. A request for the return of an application after it has been listed on Public Notice as tentatively accepted for filing is considered to be a request for dismissal of that application without prejudice.

(i) If the applicant requests dismissal of its application with prejudice, the Commission will dismiss the application with prejudice.